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Report of the Ad Hoc Committee on the Scope of Legal Protection under the Convention on the Safety of United Nations and Associated Personnel

24-28 March 2003

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Chapter I
Introduction

1. The Ad Hoc Committee on the Scope of Legal Protection under the Convention on the Safety of United Nations and Associated Personnel, established by the General Assembly in its resolution 56/89 of 12 December 2001, was reconvened pursuant to paragraph 8 of General Assembly resolution 57/28 of 19 November 2002, to continue the discussion on measures to enhance the existing protective legal regime for United Nations and associated personnel, including addressing the application of the Convention to all United Nations operations, taking into account the report of the Secretary-General (A/55/637) and the discussions in the Ad Hoc Committee.[1] The Ad Hoc Committee met at United Nations Headquarters from 24 to 28 March 2003.

2. In accordance with paragraph 7 of resolution 56/89, the Ad Hoc Committee was open to all States Members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency. In addition, pursuant to paragraph 8 of the resolution, the Secretary-General invited the International Committee of the Red Cross to participate as an observer in the deliberations of the Ad Hoc Committee.

3. The Vice-Chairman of the Ad Hoc Committee, Marcelo Vazquez (Ecuador), opened the session of the Ad Hoc Committee.

4. At its 3rd plenary meeting, on 24 March, the Ad Hoc Committee elected Christian Wenaweser (Liechtenstein) as Chairman of the Committee to replace H.R.H. Prince Zeid Ra'ad Zeid Al-Hussein (Jordan), who was unable to serve as chairman. The Committee also elected Mahmoud Hmoud (Jordan) as Vice-Chairman to fill in a vacancy caused by the resignation of Elana Geddis (New Zealand). Other members of the Bureau remained the same as at the previous session. The Bureau was thus comprised of the following members:

Chairman:
Christian Wenaweser (Liechtenstein)

Vice-Chairpersons:
Mahmoud Hmoud (Jordan)
Ioana Gabriela Stancu (Romania)
Marcelo Vazquez (Ecuador)

Rapporteur:
Daniel Kipkemei Kottut (Kenya)

5. Václav Mikulka, Director of the Codification Division of the Office of Legal Affairs, acted as Secretary of the Ad Hoc Committee. Mahnoush H. Arsanjani, Deputy Director of the Division, acted as Deputy Secretary of the Ad Hoc Committee and Secretary to its Working Group of the Whole. The Codification Division provided the substantive services for the Ad Hoc Committee and its Working Group.

6. At the 3rd plenary meeting, the Ad Hoc Committee adopted the following agenda (A/AC.264/L.4):

1. Opening of the session.
2. Election of officers.
3. Adoption of the agenda.
4. Organization of work.
5. Consideration of measures to enhance the existing protective legal regime for United Nations and associated personnel, including addressing the application of the Convention to all United Nations operations, taking into account the report of the Secretary-General (A/55/637) and the discussions in the Ad Hoc Committee.[1]
6. Adoption of the report.

7. The Committee had before it General Assembly resolution 57/28, the report of the Committee on the work of its 2002 session,[2] the report of the Secretary-General entitled "Scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel" (A/55/637), as well as proposals submitted by New Zealand,[3] Pakistan,[4] and Greece on behalf of the European Union.[5] The texts of these proposals are reproduced in the annex to the present report.

Chapter II
Proceedings

8. At its 3rd plenary meeting, the Ad Hoc Committee adopted its organization of work and decided to continue its deliberations in a Working Group of the Whole. The Working Group held six meetings, from 24 to 26 March. At its 4th plenary meeting, on 28 March 2003, the Committee adopted its report.

9. At the 4th meeting of the Working Group, on 25 March, delegates were briefed by representatives of the Office of Legal Affairs, the Office of the United Nations Security Coordinator, the Office for the Coordination of Humanitarian Affairs and the Office of the United Nations High Commissioner for Refugees on recent developments and practical and legal issues encountered by the United Nations in ensuring the safety and security of its personnel. The briefing was followed by a question-and-answer session.

Chapter III

Discussions in the Working Group on measures to enhance the existing protective legal regime for United Nations and associated personnel

A. General comments

10. It was generally agreed that every effort should be made to strengthen the safety and security of United Nations and associated personnel, which were of major concern to the international community. It was noted that currently only a limited number of States were party to the 1994 Convention on the Safety of United Nations and Associated Personnel and that steps should be taken to encourage more States to ratify or accede to the Convention. In that regard a suggestion was made that the Secretary-General, for example, might request States to report on the measures they had taken to become party to the Convention.

11. It was noted that despite the measures adopted by the United Nations, local staff of its offices and the staff of the humanitarian agencies and non-governmental organizations continued to be targeted. Concerns were expressed that since the previous session of the Ad Hoc Committee, a number of United Nations and associated personnel had lost their lives while carrying out duties on behalf of the international community and that only in a few instances had the perpetrators of crimes against such personnel been brought to justice.

12. Delegations expressed their satisfaction with the progress made at the fifty-seventh session of the General Assembly and the adoption of Assembly resolution 57/28, endorsing a number of short-term measures that had been proposed by the Secretary-General to strengthen the existing protective regime of the Convention. It was further emphasized in that regard that the inclusion of key provisions of the Convention in the status-of-forces, status-of-mission and host country agreements, as recommended in paragraph 3 of the resolution, was a practical measure towards ensuring the safety of United Nations and associated personnel. Similarly, support was also expressed for the preparation of model or standardized provisions by the Secretary-General for incorporation into agreements concluded between the United Nations and humanitarian non-governmental organizations or agencies.

13. The views of delegations varied, however, with respect to the extent of enhancement of the protective regime under the Convention and the means to achieve it.

14. With respect to the extent of enhancement, some delegations proposed that the scope of the 1994 Convention should be extended to all United Nations operations and presences, including field mission offices, regardless of the risk involved in their activities. However, other delegations were of the view that the element of risk was fundamental in the Convention and therefore should be retained.

15. With respect to the means to achieve the enhancement, the views were divided on the automatic application of the Convention to additional or all United Nations operations. Those delegations proposing the extension of the Convention to additional or all United Nations operations suggested eliminating the requirement of a declaration of an exceptional risk contained in article 1 (c) (ii) of the Convention. The delegations against such an extension suggested achieving the enhancement of

the legal regime of the Convention by implementing practical measures, including those enumerated in the relevant paragraphs of General Assembly resolution 57/28.

16. The view was expressed that it was necessary to clarify the respective scopes of application of international humanitarian law and the protective legal regime established by the Convention.

17. The delegations had before them the proposals contained in documents A/AC.264/2003/DP.1, A/AC 264/2003/DP.2 and A/AC.264/2003/DP.3. The proposal in A/AC.264/2003/DP.1 included a draft protocol to the Convention to provide for the automatic application of the Convention to all United Nations operations or presences. The proposal in A/AC.264/2003/DP.3 contained amendments to articles 1 and 2 of the proposal in A/AC.264/2003/DP.1. The proposal in A/AC.264/2003/DP.2 contained the text of a recommendation to be made by the Ad Hoc Committee to the Secretary-General with respect to the recommendation by him to the Security Council or the General Assembly that the relevant organ make a declaration of an exceptional risk at the time of or subsequent to the establishment of a United Nations operation in accordance with article 1 (c) (ii) of the Convention.

B. Comments on specific issues

Removal of the requirement of a declaration of an exceptional risk

18. In proposing the extension of the Convention to all United Nations operations by removing the requirement of a declaration of an exceptional risk, some delegations noted that, since 1999, the number of deaths of staff of non-peacekeeping missions was three times as great as that of civilian members of peacekeeping missions. Thus, although the non-peacekeeping staff were as vulnerable as peacekeeping personnel, they fell outside the automatic application of the Convention. It was stated that that limitation of the Convention had particular implications for personnel of United Nations funds, programmes and agencies operating in the field such as the Office of the United Nations High Commissioner for Refugees, the United Nations Children's Fund, the World Food Programme and similar humanitarian organizations, most of which were engaged in operations that were not covered by the Convention and in many cases were targeted precisely to prevent humanitarian relief. Those delegations stressed that the "trigger" mechanism envisaged in the Convention had proved to be inadequate and non-operational and had made the application of the Convention discriminatory. It was stated that the mechanism could not be implemented for a number of reasons. First of all, it would be unrealistic to expect the Secretariat of the United Nations or States to foresee situations of exceptional risk; a situation could deteriorate rapidly and procedural flaws would make it impossible to ensure the timely declaration of such risk. Secondly, political aspects and possible effects of a declaration, including political sensitivity for a host country and difficulties with deploying personnel, would prevent the organs concerned from declaring an exceptional risk. There were cases where the mechanism should have been applied but had not. In that regard, those delegations expressed support for the proposal contained in document A/AC.264/2003/DP.1.

19. Nonetheless, other delegations noted that not all United Nations operations faced risk or the same degree of risk and therefore not all of them should be equally covered by the Convention. It was stated that the Convention was intended to apply

to high-risk operations and that it might be feasible to establish a set of benchmarks that, if met, would facilitate requesting a declaration of an exceptional risk. Those delegations were of the view that it was premature to draw the conclusion that the mechanism envisaged in the Convention was inadequate and non-operational in the absence of any attempt on the part of the Secretary-General to effectively recommend initiation of a declaration procedure in the relevant organs of the United Nations. The same delegations stated that the Secretary-General should be encouraged to play an active role in recommending the initiation of a declaration of an exceptional risk in the relevant organs as a matter of routine.

20. The view was expressed that it was impossible to define risk as contained in article 1 (c) (ii) of the Convention. The view was also expressed that "exceptional risk" in article 1 (c) (ii) was such risk as was normally involved in peacekeeping operations. The removal of the element of risk would create a different political and legal scenario, an overlap with other legal regimes, such as the regimes created under the 1946 Convention on the Privileges and Immunities of the United Nations and the 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents. Furthermore, it would increase the legal burden for host States parties to the 1994 Convention, in particular with respect to article 8. In response, it was noted by some delegations that emphasis on the notion of "risk" was flawed, since "risk" did not always correspond to "vulnerability", which was equally relevant in the assessment of an effective protective regime. Furthermore, the expansion of the scope of the Convention would not place any extra burden on States parties. The application of specific provisions of the Convention had to be assessed in a particular factual situation. If there were no special circumstances leading to a belief that United Nations or associated personnel were or could be targeted, no additional action was required of the host Government. Those delegations did not see any problem with overlapping obligations of the host Government under other multilateral agreements. One way of addressing that concern was through host country or headquarter agreements.

21. A view was expressed that vulnerability by itself was not sufficient to establish a special legal regime for protection of United Nations personnel in all United Nations operations.

22. Some delegations expressed the view that, in the light of the existing political will of States, the most practical and realistic way to proceed was to enhance and strengthen the safety of United Nations and associated personnel within the existing regime of the Convention, in particular by implementing the short-term measures enumerated in General Assembly resolution 57/28.

23. On the other hand, other delegations were of the view that implementation of short-term and long-term measures was not mutually exclusive. However, while short-term measures were important and necessary, they were not sufficient since they did not eliminate the requirement of a declaration of an exceptional risk.

24. The view was expressed that elimination of the trigger mechanism might become an impetus for certain States to adhere to the Convention. Other delegations were of the view, however, that any modification of the Convention might disturb the compromise achieved in the Convention at the time of its adoption and might constitute a disincentive for States to become party to it.

United Nations operations

25. Delegations agreed that all United Nations and associated personnel facing risk should be adequately protected by the Convention. As regards the inclusion of operations other than those foreseen under article 1 (c) (i) within the scope of application of the Convention, the view was expressed that that could be achieved by making such a specification in the mandates of the operation, thus obviating the need for a declaration of an exceptional risk. The point was also made that, in the absence of a legal definition of peacekeeping as opposed to peace-building operations, the Convention could be applied to both with flexibility and without the requirement of a declaration of an exceptional risk.

26. It was noted that the use of the word "presences" in the proposal contained in document A/AC.264/2003/DP.1 had been taken from paragraph 7 of the report of the Secretary-General (A/55/637) and sought to cover, for example, field offices which, unlike United Nations operations, were not established for a specific duration; thus permanent offices, like United Nations information offices, would be excluded.

27. In the light of the lack of a legal definition of "presences" and the ensuing doubts regarding the concept, it was suggested that one possible way out was to interpret "United Nations operations" as encompassing those cases which the use of the word "presences" attempted to cover. It was also suggested that the discussion could move forward by having a common understanding on what was meant by the word "presences". In that regard, paragraph 7 of the report of the Secretary-General constituted an important basis for reaching such an understanding; thus the concept would include United Nations political missions, "post-conflict, peace-building offices" and United Nations humanitarian, development and human rights presences, as well as those offices established by agencies, programmes and funds of the United Nations system.

28. Nonetheless, the point was made that the criteria for determining what "presences" should fall under the scope of the Convention and which ones should not was not clear. The list in paragraph 7 of the report of the Secretary-General was non-exhaustive. For example, would the criteria require that they be field missions or would it suffice for them to have an affiliation with the United Nations? In that connection, it was stated that it was necessary to look at the empirical context.

29. The point was also made that, irrespective of whatever was agreed to as being encompassed by the term "presences", it was fundamental that the element of being under United Nations control and authority should also be applied.

Consideration of the proposal contained in document A/AC.264/2003/DP.1

30. In introducing the proposal, the delegation of New Zealand noted that it contained a draft optional additional protocol aimed at extending the application of the Convention to all United Nations operations by removing the "trigger" mechanism. Article 1, paragraph 1, of the protocol, drafted along the lines of the Secretary-General's recommendation contained in paragraph 30 of his report (A/55/637), would replace article 1 (c) of the Convention. Article 1, paragraph 2, and article 2 sought to clarify the relation between the protocol and the Convention. It was not the intention to alter the definition of United Nations personnel or article 2 of the Convention dealing with the enforcement measures under Chapter VII of the Charter of the United Nations.

31. Some support was voiced for the thrust of the proposal. Some drafting changes were suggested, in particular to delete article 2 and replace article 1 with the text contained in A/AC.264/2003/DP.3. Further drafting suggestions were proposed to the text of article 1 as contained in document A/AC.264/2003/DP.3: to replace "United Nations operation or presence" with "United Nations operations and presences", and the word "consistent" with "in accordance".

32. On the other hand, the view was expressed that in an attempt to extend the scope of application of the Convention to all United Nations operations, the focus should be placed on the elimination of the trigger mechanism rather than redefining the term "United Nations operations". The definition should essentially remain as in the Convention and no additional qualifiers, such as "presences" in the proposed protocol, should be added. Some delegations expressed the view that it was not clear whether the definition in A/AC.264/2003/DP.1 was in fact broader than the definition in the Convention.

33. Some delegations opposed the consideration by the Ad Hoc Committee of the proposal. They noted that it was premature to embark upon a drafting exercise before the effectiveness of short-term measures was tested and before consensus was reached on the need to extend the scope of application of the Convention. In their view, the enhancement of the protection of the United Nations and associated personnel required taking practical steps for the implementation of the Convention, such as: (a) achieving universality of the Convention; (b) including key provisions of the Convention in status-of-forces, status-of-mission and host country agreements to bind host States which were not parties to the Convention; (c) vigorous measures by the responsible officials of the Secretariat to pursue enforcement of the Convention with the aim of eliminating impunity for the crimes committed against United Nations and associated personnel; and (d) allocating more resources to the training of United Nations personnel.

34. However, other delegations were of the view that the proposal was both timely and a good starting point for constructive and focused discussion to fulfil the mandate of the Ad Hoc Committee. It was noted that, by General Assembly resolution 57/28, the Committee had been specifically entrusted with addressing the application of the Convention to all United Nations operations. Since the proposal aimed at applying the Convention to all United Nations operations, it was within the mandate of the Committee to discuss it.

35. The opposing view, however, was that the mandate of the Ad Hoc Committee, as defined by the resolution, was to address measures to enhance the existing protective legal regime for United Nations and associated personnel. The proposal therefore fell outside the scope of the Committee's mandate since it did not intend to enhance the existing regime but rather sought to create a new regime.

36. Furthermore, some delegations felt that, since the proposal aimed at amending the Convention, the Ad Hoc Committee was not the proper forum to discuss it. In that context, reference was made to a review meeting envisaged in article 23 of the Convention, as well as to the procedure for amendment of multilateral treaties provided for in article 40 of the Vienna Convention on the Law of Treaties.

37. However, other delegations stressed that the proposal did not aim at amending the Convention, but rather at creating a parallel regime for the higher protection of United Nations and associated personnel that would be binding only upon those

States willing to adhere to it. A view was also expressed that, at any rate, proposing an amendment to the Convention that would ensure much higher protection would not be inconsistent with the Ad Hoc Committee's mandate, which, given its nature, should be interpreted broadly. Accordingly, it was stated that the Committee constituted a proper forum to consider the proposal.

38. Questions were raised with respect to the simplified procedure envisaged in article 5 of the proposal. The suggestion was made to delete article 5 and to include in article 6 of the proposal definitive signature as one of the means of expressing consent to be bound by the protocol, in accordance with article 12 (1) (a) of the Vienna Convention on the Law of Treaties.

39. A view was also expressed that the proposal contained in A/AC.264/2003/DP.1 changed the premises and object of the 1994 Convention by eliminating the element of risk and its association with the special legal regime for protection. In addition, the effect of the proposal would be, in fact, to increase the category of non-governmental organizations associated with United Nations operations.

Consideration of the proposal contained in document A/AC.264/2003/DP.2

40. It was noted by some delegations that the proposals contained in documents A/AC.264/2003/DP.1 and A/AC.264/2003/DP.2 were not mutually exclusive and could be considered together. While the latter was regarded as a short-term measure aimed at improving the existing regime, the former was a long-term measure aimed at extending the application of the Convention.

41. Some delegations noted that a recommendation similar to that in the latter proposal had been made in paragraph 4 of General Assembly resolution 57/28 and therefore questioned the need to repeat it. Some other delegations noted that it would be worthwhile to consider the proposal to reinforce the recommendation made to the Secretary-General in resolution 57/28. Some delegations found it difficult to support the proposal because it did not eliminate flaws in the application of the Convention caused by the "trigger" mechanism. In considering the proposal, the need to examine closely the prerogatives of the Secretary-General under the Charter of the United Nations was emphasized.

Alternative means to extend the scope of application of the Convention

42. As an alternative to an optional protocol, the suggestion was made that a stand-alone instrument should be drafted that would include some provisions of the Convention while updating certain provisions in the light of the relevant treaties adopted recently, such as the International Convention for the Suppression of Terrorist Bombings and International Convention for the Suppression of the Financing of Terrorism. Some support was expressed for the consideration of this suggestion.

Chapter IV
Recommendation

43. It was noted that a number of important issues had been raised in the discussion of the Ad Hoc Committee which should be reflected on by delegations and discussed further in detail.

44. The Ad Hoc Committee recommended that the General Assembly:

(a) Renew its mandate for 2004;

(b) Request the Secretary-General to provide a report, in the appropriate form, in advance or at the beginning of the next session of the Ad Hoc Committee elaborating on his report on the implementation of the short-term measures agreed in General Assembly resolution 57/28, as well as on any measures undertaken on his own initiative to achieve the goals of the Convention, taking into account the discussion in the Ad Hoc Committee as reflected in the present report and including an assessment of the overall effectiveness of such measures.

Notes

[1] See *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 52* (A/57/52).

[2] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 52* (A/57/52).

[3] A/AC.264/2003/DP.1.

[4] A/AC.264/2003/DP.2.

[5] A/AC.264/2003/DP.3.

Annex

A. Proposal by New Zealand (A/AC.264/2003/DP.1)

1. A significant shortfall in the scope of application of the United Nations Convention on the Safety of United Nations and Associated Personnel was identified in the report of the Secretary-General entitled "Scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel".[a]

2. Under the current provisions of the Convention, automatic application of the Convention is limited to United Nations operations established with the purpose of maintaining or restoring international peace and security, i.e. peacekeeping operations (article 1 (c) (i)). Application of the Convention to all other United Nations operations, such as United Nations political missions, post-conflict and peace-building offices, or humanitarian missions, is conditional on a "declaration of risk" first being issued by the Security Council or the General Assembly (article 1 (c) (ii)). No such declaration of risk has been issued since the Convention was adopted.

3. .The effect of these provisions is to place a political and procedural obstacle in the way of the application of the Convention. They also create ambiguity in the application of the Convention, which is inappropriate in a law enforcement treaty. As a result, a significant number of United Nations operations, and therefore the United Nations personnel involved, are not automatically covered by the Convention. The cases of recent United Nations political and humanitarian missions in Afghanistan, Burundi and East and West Timor identified in the Secretary-General's report are illustrative of the inadequacy of the current regime. Many current operations, such as the national unexploded ordnance programme in the Lao People's Democratic Republic (UXO LAO) or the Accelerated Demining Programme (ADP) in Mozambique, also fall outside the application of the Convention. Personnel engaged in such operations are typically unarmed civilian personnel and accordingly are more vulnerable to attack and other acts of violence.

4. The Secretary-General, in his most recent report, entitled "Safety and security of humanitarian personnel and protection of United Nations personnel",[b] indicated that threats against the safety and security of personnel involved in United Nations operations, including targeted attacks, continue to escalate. To a greater extent than was the case when the Convention was concluded, the full range of United Nations operations, not simply peacekeeping operations, are conducted in increasingly dangerous and volatile environments. Unfortunately, the perpetrators of such acts of violence seemingly operate with impunity, and since 1992, only 22 perpetrators of attacks on United Nations staff have been brought to justice.

5. The General Assembly has expressed recurring concern at the rising toll of casualties and the acts of violence to which personnel involved in United Nations operations are all too frequently exposed.[c] The need to keep under review arrangements for the protection of United Nations and associated personnel was recognized by the General Assembly when it adopted the Convention.[d] In addition to the important practical steps being taken to improve this situation, New Zealand considers that it is important to ensure that an adequate legal regime is in place to make certain that there is no impunity for the perpetrators of such acts. Furthermore,

it is important that the criminal law regime of the Convention is as clear as possible and is able to be applied in a non-discriminatory manner.

6. New Zealand accordingly endorses the Secretary-General's recommendation[e] that a protocol be developed to the Convention, to remove the declaration-of-risk trigger mechanism and apply the Convention automatically to all United Nations operations without distinction.

7. To that end, New Zealand has prepared a draft of such a protocol for the consideration of the Ad Hoc Committee (see annex). The draft Protocol consists of a preamble, a substantive clause which would replace the current definition of "United Nations operation" contained in article 1 (c) of the Convention, and a series of provisions governing the relationship between the Protocol and the Convention:

- The preamble of the draft briefly sets out the context for the adoption of the Protocol.
- Drawing on the language proposed in the report of the Secretary-General,[f] draft article 1 sets out the principle that the Convention shall apply to "all United Nations operations or presences established in a host country pursuant to a standing or specific mandate of a United Nations competent organ consistent with the Charter of the United Nations and conducted under United Nations authority and control". The definition of "United Nations operation" in article 1 (c) of the Convention would accordingly no longer apply. The intended effect of this provision would be to bring all United Nations personnel operating in the field — whether in peacekeeping operations, political or humanitarian missions or offices — within the regime of the Convention.
- Draft article 2 provides that for Parties to the Protocol, the Protocol and the Convention shall be interpreted as a single instrument, and that in the event of inconsistency, the provisions of the Protocol shall apply.
- Draft article 3 provides that the Protocol shall remain open for signature by all States, not simply those that are party to the Convention, at United Nations Headquarters for a 12-month period.
- Draft articles 4 (1) and (2) provide that the Protocol is open to all States, not simply those that are party to the Convention. Under draft article 4 (3), any instrument of ratification, acceptance, approval or accession to the Protocol shall also represent consent to be bound by the Convention. This will simplify the process for States that wish to become party to both instruments, but will enable States to continue to become party to the Convention alone if they so wish.
- Draft article 5 sets out a simplified procedure to enable existing States parties to the Convention to become party to the Protocol.
- Draft articles 6, 7 and 8 contain standard final clauses, modelled on those contained in the Convention.

Notes

[a] A/55/637.
[b] A/57/300.
[c] See, for example, General Assembly resolutions 52/126, 52/167, 53/87, 54/192, 55/175, 56/89, 56/217, 57/28 and 57/155.
[d] General Assembly resolution 49/59, fourth preambular paragraph.
[e] A/55/637, paras. 27-33.
[f] Ibid., para. 30.

Appendix

Draft Protocol to the Convention on the Safety of United Nations and Associated Personnel to provide for the automatic application of the Convention to all United Nations operations

The States Parties to this Protocol,

Recalling the terms of the Convention on the Safety of United Nations and Associated Personnel ("the Convention"),

Welcoming the important steps that have been taken for ensuring the safety of United Nations and associated personnel, including steps taken by the principal organs of the United Nations,

Deeply concerned over the continuing pattern of attacks against United Nations and associated personnel engaged in United Nations operations including in humanitarian emergencies, and conflict and post-conflict situations,

Convinced of the need to have in place an effective regime for the prevention of attacks against United Nations and associated personnel engaged in United Nations operations, and for the punishment of such attacks,

Desirous, therefore, of extending the protective regime of the Convention to all United Nations operations on an equal basis,

Have agreed as follows:

Article 1
Application of the Convention to United Nations operations

1. The Convention shall apply in respect of all United Nations and associated personnel, as defined in article 1 of the Convention, and to all United Nations operations or presences established in a host country pursuant to a standing or specific mandate of a United Nations competent organ consistent with the Charter of the United Nations and conducted under United Nations authority and control.

2. The provisions of this article shall, for Parties to the Protocol, replace article 1 (c) of the Convention.

Article 2
Relationship between this Protocol and the Convention

The provisions of this Protocol and the Convention shall, for Parties to this Protocol, be interpreted and applied together as a single instrument. In the event of any inconsistency between this Protocol and the Convention, the provisions of this Protocol shall prevail.

Article 3
Signature

This Protocol shall remain open for signature by all States at United Nations Headquarters for the twelve months from x/x/xxxx to x/x/xxxx.

Article 4
Consent to be bound

1. This Protocol is subject to ratification, acceptance or approval. Instruments of ratification, accession, acceptance or approval shall be deposited with the Secretary-General of the United Nations.

2. This Protocol shall be open for accession by any State. Instruments of accession shall be deposited with the Secretary-General of the United Nations.

3. Any instrument of ratification, acceptance, approval or accession to this Protocol deposited by a State which is not a Party to the Convention shall also represent consent to become party to the Convention.

Article 5
Simplified procedure

1. A State which has deposited before the date of the adoption of this Protocol an instrument of ratification, accession, acceptance or approval of the Convention and which has signed this Protocol in accordance with article 3, shall be considered to have established its consent to be bound by this Protocol twelve months after the date of its entry into force, unless that State notifies the depository in writing before that date that it is not availing itself of the simplified procedure set out in this article.

2. In the event of such notification, consent to be bound by this Protocol shall be established in accordance with article 4, paragraph 1.

Article 6
Entry into force

1. This Protocol shall enter into force thirty days after twenty-two instruments of ratification, acceptance, approval or accession have been deposited with the Secretary-General of the United Nations.

2. For each State ratifying, accepting, approving or acceding to the Protocol after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, the Protocol shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification, acceptance, approval or accession.

Article 7
Denunciation

1. A State Party may denounce this Protocol by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect one year following the date on which notification is received by the Secretary-General of the United Nations.

Article 8
Authentic texts

The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

B. Proposal by Pakistan (A/AC.264/2003/DP.2)

Recommendation

The Secretary-General, in consultation with the concerned States, should recommend to the Security Council or to the General Assembly that they make a declaration that an exceptional risk to the safety of personnel participating in an operation exists in respect of every operation covered by article 1 (c) (ii) of the Convention on the Safety of United Nations and Associated Personnel, at the time of its establishment. Subsequently, on the initiative of States whose personnel are participating in such an operation, the Secretary-General may make such a recommendation to the Security Council or the General Assembly, when considered necessary, if no declaration to that effect was made at the time of its establishment.

C. Proposal by Greece on behalf of the European Union regarding the proposal by New Zealand in document A/AC.264/2003/DP.1 (A/AC.264/2003/DP.3)

1. **Article 1 should read as follows:**

"Article 1

"Definition of United Nations operations

"For the parties to this Protocol, article 1 (c) of the Convention is replaced as follows: 'United Nations operation' means any United Nations operation or presence established [in a host country] pursuant to a standing or specific mandate of a United Nations competent organ consistent with the Charter of the United Nations and conducted under United Nations authority and control."

2. **Delete article 2.**

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